



Analysis of non-compliant loans in German synthetic mortgage-backed securities transactions

Gaby Trinkaus

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Over the term of a securitisation transaction, the concept of non-compliance enables a securitising bank to classify a securitised loan as materially non-compliant with transaction-specific, contractually agreed requirements. Such a loan becomes unqualified for loss allocation to the account of the protection sellers. Therefore, non-compliant loans can directly affect transaction performance and the extent of risk transfer that is actually achieved with the transaction. The concept of non-compliance is incorporated in many securitisations independent of the underlying assets or structure. In Germany, there are currently no specific regulatory provisions in place regarding this concept. However, a bank can use discretion when classifying a loan as non-compliant and could thus report non-compliant loans strategically. This hypothesis is tested based on a unique data set. The potential regulatory effects associated with such conduct are elaborated. Suggestions are made for a more adequate regulatory treatment of non-compliant loans.

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